



DONN K. HARMS
PATENT & TRADEMARK LAW CENTER
SUITE 100
12702 VIA CORTINA
DEL MAR CA 92014

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OFFICE OF PETITIONS

In re Application of
Sadao Nishibori et al.
Application No. 10/569,300
Filed: February 23, 2006
Attorney Docket No.: 3601PAT

ON PETITION

This decision is in response to the petition filed April 20, 2009, to withdraw the holding of abandonment for the above-identified application under 37 CFR 1.181 or in the alternative to revive the above-identified application under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned for failure to timely submit a timely response to the non-Final Office Action mailed July 22, 2008, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed February 25, 2009.

Petitioner asserts that a response was filed and, in support, has submitted, *inter alia*, a copy of the response which included a one month extension of time request and bears a certificate of mail dated November 20, 2008, pursuant to 37 CFR 1.8.

A search of the application file and the USPTO records does not reveal that the response was filed but, the evidence submitted corroborates a timely response to the non-Final Office Action.

Accordingly, the Notice of Abandonment mailed February 25, 2009 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. The petition fee will be refunded in due course. The one month extension of time fee will be charged to deposit account no. 07-1338.

In view of the above, there is no need to treat the petition in the alternative under 37 CFR 1.137(b).

This matter will be referred to Technology Center 1791 for appropriate action on the amendment filed November 20, 2008, a copy of which was submitted with the instant petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions